IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

OP.No. 16034 of 1999(H)

PETITIONERS:
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1. **ISSAC N.P.,**
   TICKET NO. 3778,
   H.M.T. KALAMASSERY.

2. **GEORGE P.J,**
   TICKET NO. 3604,
   -DO- -DO-.

3. **DIVAKARAN T.G.,**
   TICKET NO. 3587,
   -DO- -DO-.

4. **GOPINATHAN NAIR N.,**
   TICKET NO. 3588, DO. DO.

5. **CLEETUS P.T.,**
   TICKET NO. 3110, DO DO.

6. **KRISHNANKUTTY M.,**
   TICKET NO. 3139, DO. DO.

7. **PAUL MATHEW,**
   TICKET NO. 3576, DO. DO.

8. **JOY K.J,**
   TICKET NO. 3627, DO. DO.

9. **MOHANAN NAIR K.,**
   TICKET NO. 3521, DO. DO.

10. **SOMASUNDARAN P.K.,**
    TICKET NO. 4451, DO. DO.

11. **KUTTAPPAN NAIR R.,**
    TICKET NO. 3227, DO. DO.

O.P. NO. 16034/1999:

12. SWAMINATHAN K.S.,
TICKET NO. 4445, DO. DO.

13. VALSAN O.G.,
TICKET NO. 4165, DO. DO.

14. THILAKAN K.K.,
TICKET NO. 3694, DO. DO.

15. VALSAN C.M.,
TICKET NO. 4544, DO. DO.

16. SUDHAKARAN.C,
TICKET NO. 3649, DO. DO.

17. VARGHESE KURIKOT,
TICKET NO. 4221, DO. DO.

18. D' ALMEDA C.,
TICKET NO. 3593,
H.M.T. KALAMASSERRY.

19. VARKEY K.O. TICKET NO. 3644, DO.

20. RAJU P.V., TICKET NO. 3561, DO. DO.

21. KAMALAKARAN T.R., TICKET NO. 3566, DO. DO.

22. K.M. DHARMAJAN, TICKET NO. 3390, DO. DO.

23. P.K. HARIHARAN NAIR, TICKET NO. 3665, DO. DO.

24. GEORGE C. MALY, TICKET NO. 3423, DO. DO.

25. ALIYAR KUNJU, TICKET NO. 3503, DO. DO.

26. THOMAS K.M., TICKET NO. 3442, DO. DO.

27. STANLEY FERNANDEZ, TICKET NO. 3445, DO. DO.

BY ADV. SRI.B.GOPAKUMAR,
ADV. SMT.CHINCY GOPAKUMAR.

O.P. NO. 16034/1999:

RESPONDENTS:
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1. **HINDUSTAN MACHINE TOOLS LTD.,**
   REPRESENTED BY GENERAL MANAGER,
   KALAMASSERY.

2. **HINDUSTAN MACHINE TOOLS LTD.,**
   REPRESENTED BY DIRECTOR (PERSONNEL) 59,
   BELLARY ROAD, BANGALORE-32.

BY ADV. SRI.M.PATHROSE MATHAI,
ADV. SRI.SAJI VARGHESE.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 23/11/2007,ALONG WITH O.P NOS. 16771/1999 & 17141/1999 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 26034/1999 IN O.P. NO. 16034/1999-H

DISMISSED

23/11/2007. **SD/- KURIAN JOSEPH, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER NO. 15/97 DT. 18/06/97 ISSUED BY THE R.2.

EXT.P.2: COPY OF THE REPRESENTATION DTD. 15/07/97 OF THE 12TH PETITIONER.

EXT.P.3: COPY OF THE COMMUNICATION DT. 09/12/97 BY THE RESPONDENTS.

EXT.P.4: COPY OF THE COMMUNICATION DT. 20/05/99 RECEIVED ON 21/06/99.

RESPONDENT'S EXHIBIT:

EXT.R2.A: COPY OF THE SETTLEMENT DTD. 23/05/1995 BETWEEN THE MANAGEMENT AND UNIONS.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

O.P. NOs. 16034, 16771 &
17141 OF 1999

Dated this the 23rd day of November, 2007.

J U D G M E N T

Petitioners are aggrieved by the steps taken by the respondent-Company for recovery of certain alleged excess payments. According to the petitioners, it cannot be said that they had drawn any excess wages, since the payments received by them is only pursuant to rectification of an anomaly in the junior-senior fixation.

2. Be that as it may, the respondent-company has no case that the alleged excess payments were received by the petitioners by playing fraud. They have also no case that such payments were made on any misrepresentation made by the petitioners. The payments have been made during the period from 01.01.1997 to 30.06.1997. In such circumstances, it will be highly inequitable and unjust to permit recovery of such payments bonafide made more than ten years back.

Therefore, these original petitions are disposed of in terms of the interim orders leaving the contentions open and

clarifying that in the peculiar facts and circumstances of the case, there shall be no recovery of payments already made to the petitioners.

KURIAN JOSEPH, JUDGE.

smp

KURIAN JOSEPH, J.

O.P. NOs. 16034, 16771
&
17141 OF 1999

J U D G M E N T

23.11.2007